

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws. There lies supplemental jurisdiction over Plaintiff's state-law claims because they arise out of the same common nucleus of operative facts as Plaintiff's federal claims asserted herein.

3. This Court may properly maintain personal jurisdiction over Defendant because its contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and Defendant is deemed to reside where it is subject to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.

PARTIES

5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

6. Plaintiff is an adult individual, with an address as set forth in the caption.

7. Defendant is a full-service marketing and commercialization agency for life sciences with numerous locations in North America, including several in the United States.

8. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

9. Defendant is an “employer” within the meaning of the ADA because Defendant employed at least fifteen (15) or more full-time employees within the present or preceding calendar year for at least twenty (20) calendar weeks and engages in a business that affects interstate commerce.

FACTUAL BACKGROUND

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff was hired by Defendant on or about February 1, 2021 as a Director of Brand Strategy until her termination on or about May 19, 2021.

12. At the outset of her employment, Plaintiff was supervised by Jamie Lutzky (Senior Vice President of Brand Strategy). After Lutzky began a maternity leave from Defendant, however, during the last two (2) months of Plaintiff’s employment, she was supervised by Carl Turner (Chief Brand Strategy Officer).

13. Plaintiff has and continues to suffer from several disabilities, including but not limited to Anxiety, Depression, Bi-Polar Disorder, and Post Traumatic Stress Disorder (“PTSD”).

14. As a result of Plaintiff’s aforesaid health conditions, Plaintiff is, at times, limited in her ability to perform some daily life activities, including but not limited to communicating, concentrating, thinking, and working (as well as other daily life activities).

15. Despite her aforementioned long-term health conditions and limitations, Plaintiff has worked hard to mitigate the effects of those conditions through continued treatment, and has performed well in her area of expertise for many years without deficiency.

16. In this regard, Plaintiff was still able to perform the duties of her job very well with Defendants despite her conditions.

17. Plaintiff's job performance throughout her employment was exhibited not only by praise that she had received pertaining to numerous projects and from management, but also in that she had not received any disciplinary action, performance improvement plans, or other negative performance evaluations throughout her employment.

18. While she excelled in her duties during her employment with Defendant, however, the nature of Plaintiff's health conditions can, at times, become visible or otherwise manifest themselves in Plaintiff's demeanor and/or communication style.

19. Turner had significant problems with Plaintiff's health conditions. As a result, Turner began to verbally harass Plaintiff on a consistent basis throughout the remainder of her employment, including making numerous discriminatory comments to Plaintiff that she was "very talented" but:

- a. her personality "sucks";
- b. she is "too anxious" in relation to her anxiety;
- c. she is "a risk to the company," as if unpredictable due to her health conditions;
- d. her anxiety is a problem; and
- e. other discriminatory comments.

20. On several occasions, Plaintiff relayed to Turner, as well as other members of Defendants' management and Human Resources ("HR"), that she exhibits clinical anxiety because

she has clinical health and anxiety problems, which she takes medication and actively treats for, asking that the same be excused or at least understood.

21. In response to Plaintiff expressing concerns about Turner's aforementioned commentary and explaining her disabilities, Turner callously responded to Plaintiff without concern for her disabilities or how Defendant could work with her to accommodate the same, stating "you need to make a plan and tell me how you will get better and not just tell me who you are."

22. Plaintiff also raised concerns to Defendant's HR Department, including but not limited to Jane Watson. In response to Plaintiff's concerns, however, Defendant's HR similarly did not take any action to assist Plaintiff with her disabilities or to address her situation with management, but instead simply inquired as to whether Plaintiff was suicidal.

23. Shortly thereafter, Plaintiff was terminated for the entirely pretextual reason that she was simply "not a good fit" with the company, despite that she had not received any disciplinary action or negative performance evaluations during her employment.

24. Therefore, Plaintiff believes and avers that Defendant failed to accommodate her, subjected her to a hostile work environment, and terminated her because of (1) her known and/or perceived disabilities; (2) her record of impairment; (3) her requested accommodations; (4) her concerns of discrimination; and/or (5) Defendant's failure to properly accommodate Plaintiff.

COUNT I

Violations of the Americans with Disabilities Act ("ADA")

([1] Actual/Perceived/Record of Disability Discrimination; [2] Hostile Work Environment; [3] Retaliation; and [4] Failure to Accommodate)

25. The foregoing paragraphs are fully incorporated herein as though set forth at length.

26. Plaintiff suffered from qualifying health conditions under the ADA which affected her ability (at times) to perform some daily life activities including, but not limited to communicating, concentrating, thinking, and working (as well as other daily life activities).

27. Plaintiff kept Defendant's management informed of her serious health conditions and need for accommodations.

28. Despite Plaintiff's aforementioned health conditions and limitations, she was still able to perform the duties of her job well with Defendants.

29. Plaintiff requested reasonable accommodations from Defendants, including but not limited to excusing and/or understanding her conditions when they would become visible through her demeanor or communication style.

30. Defendant, however, failed to properly engage in the interactive process with Plaintiff and/or accommodate Plaintiff as it pertained to her conditions, and instead began to harass Plaintiff on a consistent basis, including directly making negative comments about her conditions, until her separation.

31. Plaintiff was also terminated shortly after discussing her health conditions, requesting accommodations, and expressing concerns pertaining to Defendant's treatment of her with Defendant's management and HR, for a reason which was entirely pretextual.

32. Plaintiff believes and avers that Defendant failed to accommodate her, subjected her to a hostile work environment, and terminated her because of (1) her known and/or perceived disabilities; (2) her record of impairment; (3) her requested accommodations; (4) her concerns of discrimination; and/or (5) Defendant's failure to properly accommodate Plaintiff.

33. These actions constitute unlawful discrimination and retaliation pursuant to the ADA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.

B. Plaintiff is to be awarded punitive damages and/or liquidated damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress / pain and suffering);

D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

E. Plaintiff is to be given a jury trial as demanded in the caption of the instant Complaint.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By: _____



Ari R. Karpf, Esq.
Timothy S. Seiler, Esq.
3331 Street Rd.
Two Greenwood Square, Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: October 1, 2021

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Ariel Tishgart
v.

CIVIL ACTION

Klick USA, Inc., d/b/a Klick Health

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

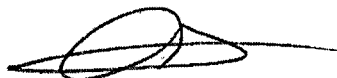
- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10/1/2021

Date

(215) 639-0801

Telephone



Attorney-at-law

(215) 639-4970

FAX Number

Plaintiff

Attorney for

akarpf@karpf-law.com

E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 2200 Ben Franklin parkway, Suite 1805, Philadelphia, PA 19130

Address of Defendant: 500 N. Michigan Avenue, Suite 600, Chicago, IL 60611

Place of Accident, Incident or Transaction: Defendant's place of business

RELATED CASE, IF ANY:

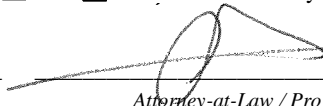
Case Number: Judge: Date Terminated:

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/1/2021


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input type="checkbox"/> | 6. Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |
- (Please specify):

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |
- (Please specify):

ARBITRATION CERTIFICATION

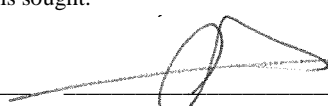
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Ari R. Karpf, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 10/1/2021


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

